HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARNUNA REDDY

WRIT PETITION No. 5901 OF 2007

Between:

The Special Officer (the then Chairperson),
Alwal Municipality, Alwal, R.R. District
and another.

... Petitioners

AND

D.N. Sekhar

... Respondent

: ORDER :

Counsel for the petitioner : Shri Polisetty Radhakrishna.
(Standing Counsel for
Municipalities)

Counsel for the respondent : Shri S. Jagadish

Dated: 24th April, 2007

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Per G.S. SINGHVI, CJ

This petition is directed against order dated 08.02.2007 vide which the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') allowed the application filed by respondent – D.N. Sekhar and ordered his re-induction in the services of Alwal Municipality without prejudice to the pending First Information Report (FIR).

The respondent joined the services of Alwal Municipality in 1987 as Public Health Worker (NMR). After five years, his services are said to have been regularized. On a complaint made by the Commissioner of Alwal Municipality (petitioner No.2 herein) on 24.12.2004, a criminal case was registered under Sections 468 and 420 of the Indian Penal Code (IPC) against the respondent and three other employees, namely, Sarvasri B. Nagendra Reddy, S.Nagender, and D. Yadagiri on the allegation that they facilitated construction of house by Sri K. Ramakrishna Rao on the basis of forged permission. By an order dated 17.01.2005, all the employees were placed under suspension on the premise that they have been named in FIR No. 498/2004.

Shri B. Narender Reddy and S. Nagender Challenged their suspension in O.A.Nos.2861 of 2005 and 2888 of 2005. By an

interim order, the Tribunal directed consideration of their cases for reinstatement. Accordingly, they were reinstated despite the fact that both were named in a case of forgery committed in 1999. The respondent also represented for reinstatement, but his request was turned down. He then filed an application under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act'). He pleaded that refusal of the competent authority to reinstate him has resulted in discrimination and violation of Article 14 of the Constitution. He further pleaded that all the employees, who were suspended vide proceedings dated 17.01.2005, were similarly situated and, therefore, there could be no justification to deny reinstatement to him. The respondent also claimed that in terms of G.O.Ms.No.86, General Administration Department, dated 08.03.1994, the competent authority is duty bound to review his case and take appropriate decision, but no action was taken in that regard.

In the counter filed on behalf of the present petitioners, it was averred that Sarvasri B. Narendra Reddy and S.Nagender were reinstated pursuant to interim orders passed by the Tribunal in O.A.Nos.2861 and 2888 of 2005. It was then averred that Sarvasri B. Narendra Reddy and S.Nagender were reinstated because they were not involved in the alleged forgery, which facilitated construction of house by Shri K. Ramakrishna Rao.

The Tribunal referred to the policy contained in G.O.Ms.No.86, dated 08.03.1994 and ordained the present petitioners to re-induct the respondent in the services of Alwal

Municipality.

Sri Polisetty Radhakrishna, learned counsel for the petitioners, frankly admitted that two of the persons, who were suspended along with the respondent, have been reinstated but trying to distinguish the latter's case by stating that he is only working as N.M.R.

In our opinion, the status of the respondent is not at all relevant for determining whether the action of the petitioners in not reinstating him is arbitrary and discriminatory. Since the allegation with reference to which all the employees were suspended is identical and they were suspended by one order, there could be no justification for continued suspension of the respondent. While considering the cases of Sarvasri S.Nagender and B. Nagendra Reddy, who filed O.A.Nos.2861 and 2888 of 2005, the concerned authority was duty bound to review the respondent's case, which was admittedly not done. In any case, the concerned authority ought to have reviewed the respondent's case in terms of G.O.Ms.No.86, dated 08.03.1994. The petitioners have not offered any explanation as to why the respondent's case was not reviewed even after a lapse of two years. Therefore, the direction given by the Tribunal for his re-induction in the service with the rider that the same would not affect the pending FIR cannot be faulted.

For the reasons stated above, we hold that the order under challenge does not suffer from any patent legal infirmity warranting

interference under Article 226 of the Constitution of India and the writ petition is liable to be dismissed. Ordered accordingly.

As a sequel to dismissal of the writ petition, WPMP.No.7543 of 2007 filed by the petitioners is dismissed and interim order dated 12.04.2007 is vacated.

G.S.SINGHVI, CJ

C.V.NNAGARJUNA REDDY, J

Date: 24.04.2007
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